



Revised 03/06 WDNY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORKFORM TO BE USED IN FILING A CIVIL COMPLAINT IN FEDERAL COURT
(Non-Prisoner Context)

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1. CAPTION OF ACTION

A. Full Name of Plaintiff: NOTE: *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application or the only plaintiff to be considered will be the plaintiff who filed an application.*

SHANLENE NOUVELLE SMITH

-vs-

B. Full Name(s) of Defendant(s) NOTE: *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. Add a separate sheet, if necessary.*

1. CITY of NORTH TONAWANDA

4. _____
5. _____
6. _____

2. STATEMENT OF JURISDICTION, VENUE and NATURE OF SUIT*All of these sections MUST be answered*

Identify the basis for federal Court jurisdiction over your claim, such as that the United States government is a party to the action, all the parties reside in different states and therefore you claim diversity jurisdiction, or the claim presents a federal question or arises under federal law.

A. Basis of Jurisdiction in Federal Court: Legal malpractice - my lawyer failed to represent me and dropped my claim without my knowledge

State why the Western District of New York is the proper venue for this action, such as that your claim arises in or the defendant resides in the 17 westernmost counties of New York State.

B. Reason for Venue in the Western District: My claim arises in and I reside in WNY.

Identify the nature of this action, such as that it is a civil rights claim, a personal injury or personal property (tort) claim, a property rights claim, or whatever it is.

C. Nature of Suit: Personal injury claim

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: *To list additional plaintiffs, use this format on another sheet of paper.*

Name of First Plaintiff: _____

Present Address: _____

Name of Second Plaintiff: _____

Present Address: _____

DEFENDANT'S INFORMATION NOTE: *To list additional defendants, use this format on another sheet of paper.*

Name of First Defendant: _____

Official Position of Defendant (if relevant): _____

Address of Defendant: _____

Name of Second Defendant: _____

Official Position of Defendant (if relevant): _____

Address of Defendant: _____

Name of Third Defendant: _____

Official Position of Defendant (if relevant): _____

Address of Defendant: _____

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No

If Yes, complete the next section. NOTE: *If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes No

If not, give the approximate date it was resolved. _____

Disposition (check those statements which apply):

Dismissed (check the statement which indicates why it was dismissed):

- By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

- plaintiff
- defendant.

5. STATEMENT OF CLAIM

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support each of your claims. In other words, just tell the story of what happened and do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

A. FIRST CLAIM: On (date of the incident) February 2, 2018, defendant (give the name and (if relevant) the position held of each defendant involved in this incident) City of North Tonawanda

did the following to me (briefly state what each defendant named above did): clean the snow from the side walk but did not salt it causing me to slip and fall injuring my spine

The federal basis for this claim is: I was never represented by my attorney and only found out July 2020 that he dropped my case.

State briefly exactly what you want the Court to do for you. Make no legal arguments and cite no cases or statutes:

I want the court to make a decision on my claim as I was not represented and did not get to even have a hearing.

B. SECOND CLAIM: On (date of the incident) _____, defendant (give the name and (if relevant) position held of each defendant involved in this incident) _____

did the following to me (briefly state what each defendant named above did): _____

The federal basis for this claim is: _____

State briefly exactly what you want the Court to do for you. Make no legal arguments and cite no cases or statutes:

If you have additional claims, use the above format to set them out on additional sheets of paper.

6. SUMMARY OF RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

A request to have my claim heard and a decision made

Do you want a jury trial? Yes No

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4/6/2021
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

Signature(s) of Plaintiff(s)

